

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

|                          |   |  |
|--------------------------|---|--|
| UNITED STATES OF AMERICA | : | CASE NO. 3:18-CR-032 (1)   |
| Plaintiff,               | : | (Judge Thomas M. Rose)   |
| v.                       | : |  |
| STERLING H. ROBERTS      | : | <u>DEFENDANT STERLING ROBERTS'</u><br><u>MOTION TO CONTINUE TRIAL DATE</u> |
| Defendant.               | : |  |

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Now comes Defendant, Sterling H. Roberts, by and through undersigned counsel and respectfully requests that this Court continue the jury trial scheduled for November 30, 2020. Mr. Roberts submits that because of the factual and legal confines of this case, the ends of justice served by granting this motion outweigh the best interest of the public and the Defendant's right to a speedy trial.

Mr. Roberts is currently serving a one hundred and twenty (120) month sentence out of the United States District Court of South Carolina, Case No. 7:17-cr-00846, for a felon in possession of a firearm and ammunition in violation of 18 U.S.C. § 911(g)(1) and 924(a)(2). Trial in the above case is currently scheduled for November 30, 2020. On October 30, 2020, Chief Judge Algenon L. Marbley issued General Order 20-31 which permits limited in-court proceedings and criminal jury trials, but also recognizes the "current conditions that exist in the Southern District of Ohio and nationwide regarding the COVID-19 pandemic."

Specifically, the COVID-19 pandemic remains ongoing and continues to pose a lethal threat to citizens of this country. According to the Centers for Disease Control and Prevention as of November 2, 2020, there have been over nine million total cases and two hundred thirty thousand (230,000) deaths in the United States. The Ohio Department of Health lists two hundred nineteen thousand (219,000) cases with five thousand three hundred and three (5,303) deaths in Ohio and the numbers are climbing. Governor Mike DeWine announced on October 29, 2020 that Ohio has hit a record number of cases reported in a single day, “The virus is raging throughout the State, and there is no place to hide.”

COVID-19 has drastically affected counsel’s ability to meet with Mr. Roberts to review discovery, explore case strategies and discuss proposed plea offers. The spread of COVID-19 in carceral institutions has been found at all levels – local, state and federal. The United States Marshals are at high risk as well. Mr. Roberts’ movement in and out of facilities can lead to increased infection rates for every participant in a criminal jury trial.

The pandemic has rendered meaningful investigation impossible. Counsel has been unable to conduct in-person interviews during the National State of Emergency. Moreover, counsel expects this case to last for two to three weeks and include dozens of witnesses.

The length and complexity of this trial coupled with the difficulty in seating a jury after years of pretrial publicity also weighs heavily in favor of a continuance.

Wherefore, Mr. Roberts respectfully requests that this Court continue his jury trial.

  
Sterling H. Roberts, Defendant

  
Date

Respectfully submitted,

/s/ Donald J. Malarcik

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 4th day of November, 2020, the foregoing document was filed with the Clerk of the United States District Court, Southern District of Ohio, by way of the Court's electronic filing system which will notify all parties of record.

/s/ James P. Fleisher

James P. Fleisher (0059509)

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